

Responsibility of the Department of Justice to look into exactly that matter.

I thank the Presiding Officer for his patience with me. I thank the distinguished Senator from Florida for his patience.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON of Florida. Mr. President, we have heard one of the best—I cannot use “oration” because it was far superior. It was one of the best explanations of how the Department of Justice has gone awry by the Senator from Rhode Island. I commend the Senator from Rhode Island. I thank him for his legal analysis, and I wish to underscore what he has said, that the reason the Department of Justice was ignoring that Court of Appeals decision, the reason the Department of Justice was ignoring all of the history of the record that has been built over time, of which the Senator cited the statements from World War II, the reason all of that has been ignored or purposely missed is because the Department of Justice became politicized so that politics became the rule of the day instead of the rule of law.

In a nation that recognizes it is a nation of law, not a rule of men, when politics is inserted for law, then we get into the trouble we have gotten into. That is what brings us here.

I have already addressed this subject of why my conclusion, a long deliberative process of coming to the question, that we ought to etch into law the Army Field Manual as the standard by which the intelligence community will carry out their interrogations. That ought to be the law.

I thank the Senators who have spoken in favor of this legislation. We are going to have a chance to vote on it pretty soon. Each of us can determine what we think ought to be representative of America, if it ought to be torture or not. We are clearly going to have an opportunity to say that because we are going to vote on a proposed law that says: Is torture going to be the standard for America?

I wish to speak on another subject, so I guess the appropriate parliamentary procedure is for me to ask consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### RAPE AND SEXUAL ASSAULT INVESTIGATIONS

Mr. NELSON of Florida. Mr. President, thus far, the Department of the Army has acknowledged that there have been 124 incidents of sexual assault against contractor and military personnel in Iraq which are currently under investigation. We know of only three of those cases that are now being considered by the Department of Justice and, therefore, the Department of Justice will not respond to my entreaties about this investigation because they say it is an ongoing criminal investigation.

However, in other cases, we have gathered some facts, and these facts

have been quite telling. There does not seem to be a standard to protect female contractors or military personnel from sexual assault in Iraq under the jurisdiction of the U.S. Army. The 124 cases of sexual assaults of both contractors and military personnel have been acknowledged just under the Department of the Army. The question is, under the other branches of the service whose contracts are being administered by civilian contractors, how many are there; and are there similar cases in the other theater of operations—Afghanistan as well as in Iraq?

What we also know from the facts we have gathered thus far is the problem is not within the U.S. military nearly so much as it is among contractor personnel because there is a nebulous set of regulations as to how it is to be handled on the reporting of a rape. Untold numbers of sexual assaults have been committed in Iraq, and the Departments of Justice, Defense, and State are providing very little information on whether they have been prosecuted. It is time we have this information.

Last December, I wrote to the Secretary of Defense asking him to launch an investigation by DOD’s inspector general into the rape and sexual assault cases in both Iraq and Afghanistan. I sent similar letters to the Secretary of State regarding the investigations carried out under the Bureau of Diplomatic Security, and I requested that the Attorney General update me on the status of the related criminal investigations. I asked whether and why evidence in the sexual assault cases was turned over to the private firms.

I got into this when one of my constituents in Tampa, FL, came forth and told about the assault case. This had followed a Texas case that had been elevated to the public sphere. Apparently, one of these women was assaulted, then went to see the doctor, and a rape kit was prepared by the military doctors. That kit would have the evidence of the rape, and it was turned over to the civilian contractor. Suddenly, the rape kit disappeared.

So the question is, what steps has the Department of Defense taken to ensure the full investigation and prosecution of these cases?

In the meantime, the Department of State has told our office that diplomatic security has investigated four cases. One of them was the Texas lady, and that was where a contractor personnel assaulted another contractor personnel. Another involved a State Department employee who allegedly assaulted a woman employed by a contractor—in this case KBR. Then another case involved two State Department employees. According to the State Department, three of the cases were referred to the Department of Justice for investigation and possible prosecution.

Recently, our Senate staff met with representatives of the Department of Defense IG’s office, and we asked them

to brief us because of the response received from the Department of Defense, which certainly did not answer my questions. The inspector general’s office stated that, and this is what blew our mind, the Army Criminal Investigation Command has investigated 124 cases of sexual assault. Now, that is just the Army, and that is just in Iraq. And that is just in the 3 years of 2005, 2006, and 2007. So what about the other services and what about Afghanistan?

So this naturally leads me to question whether there could be hundreds of additional investigations going on about contractor personnel—specifically in the ones that have come to us, it was the contractor KBR—and it suggests that perhaps there could be many assaults that have not been investigated at all. And because the inspector general’s office would not provide information on the disposition of these investigations, it certainly is unclear whether there has been any prosecution of these within the military or the criminal justice systems, or whether it has been dealt with administratively.

Now, one of my Florida constituents was, and I will use the word advisedly, allegedly sexually battered in Iraq in 2005. And although the Naval Criminal Investigative Service was supposed to be investigating her case, they will not even say anything about the basic matters of the case because, the Navy says:

Law enforcement records are exempt from disclosure at the time requested if it can be reasonably expected to interfere with the enforcement proceedings.

I think we in this Congress, we in the Senate, and those of us on the Senate Armed Services Committee and the Senate Foreign Relations Committee, certainly have an obligation to investigate. Because cases such as this can languish far too long without any information from the Government coming forth in order to protect these individuals.

So I have asked that our office follow up with the Defense Department, with the following detailed questions: The actual numbers of the sexual assault cases reported since 2001 in Afghanistan and since 2003 in Iraq and the disposition of each case. I have asked to have the information of the service components or the Government agencies involved in each resulting investigation. I have asked for the status of the persons involved in each case—in other words, I want to know whether they are Active military, U.S. Government civilian employees, contractor employees or are they an Iraqi or Afghani national.

I have asked for an explanation of the U.S. jurisdiction or the investigative authority for sexual assault allegations in both those areas in which we are engaged—Iraq and Afghanistan. And I have asked for a clear explanation of the rules, regulations, policies, and processes under which sexual assaults are investigated, evidence is obtained, and responsible individuals are held accountable. I have also asked